

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Review Application (Civil) No. 0146 of 2019
(In Writ Petition No. 05236 of 2014)

District : Aurangabad

Water and Land Management Institute,
Kanchanwadi, Aurangabad,
Through its Director General.

.. Applicant
(Original
respondent)

versus

1. Sudhakar Namdeo Gaikwad,
Age : 52 years,
Occupation : Service.
2. Sudhir Bapu Kulkarni,
Age : 58 years,
Occupation : Service.
3. Nana Janardhan Pandhare,
Age : 59 years,
Occupation : Retired.
4. Shivaji Shankarrao Kamble,
Age : 59 years,
Occupation : Retired.
5. Kashinath Sakharam Arke,
Age : 58 years,
Occupation : Service.
6. Gajanan Girdhari Bedre,
Age : 54 years,
Occupation : Service.
7. Prabhakar Sakharampant
Ratnaparkhi,
Age : 55 years,
Occupation : Service.

8. Kailas Sonaji Pujari,
Age : 56 years,
Occupation : Service.
9. Nandlal Shantilal Jain,
Age : 54 years,
Occupation : Service.
10. Ramakant Gangadharrao Patil,
Age : 54 years,
Occupation : Service.
11. Sudhir Dattatraya Kulkarni,
Age : 53 years,
Occupation : Service.
12. Pravin Sudhakarrrao Kulkarni,
Age : 47 years,
Occupation : Service.
13. Raosaheb Sheshrao Walunje,
Age : 62 years,
Occupation : Retired.
14. Santu Pandurang Gadekar,
Age : 50 years,
Occupation : Service.
15. Bhagwan Shankarrao Dawange,
Age : 59 years,
Occupation : Retired.
16. Shankar Rukhamnrao Kathole,
Age : 55 years,
Occupation : Service.
17. Dilip Balkrishna Saraf,
Deceased through L.Rs.,
 - 17A. Chaya Dilip Saraf,
Age : Major,
Occupation : Nil.
 - 17B. Satish Dilip Saraf,
Age : Major,
Occupation : Nil.

17C. Narendra Dilip Saraf,
Age : Major,
Occupation : Nil.

17D. Vivek Dilip Saraf,
Age : Major,
Occupation : Nil.

Nos.17A to 17D
R/o. Plot No.4,
Paithan Road,WALMI Gate,
Kanchanwadi, Aurangabad.

18. Suhas Uttamrao Lungare,
Age : 51 years,
Occupation : Service.

19. Vishnu Tukaram Bhalerao,
Age : 52 years,
Occupation : Service.

20. Mohd. Ismail Moinuddin,
Age : 52 years,
Occupation : Service.

21. Satish Dattatraya Deshmukh,
Age : 54 years,
Occupation : Service.

22. Mohd. Ghaziuddin Mohd.
Zamiruddin,
Age : 55 years,
Occupation : Service.

23. Vivekanand Chidambar Deshpande,
Age : 52 years,
Occupation : Service.

24. Arvind Gopinath Pawar,
Age : 51 years,
Occupation : Service.

25. Machindra Kashinath Pawar,
Age : 51 years,
Occupation : Service.

26. Prakash Hanumantrao Kulkarni,
Age : 55 years,
Occupation : Service.
27. Dhanraj Tanbaji Garmade,
Age : 59 years,
Occupation : Retired.
28. Vaijnath Madhavrao Suryakar,
Age : 54 years,
Occupation : Service.
29. Sakharam Hiroji Adivarekar,
Age : 57 years,
Occupation : Service.
30. Projveer Sing,
Age : 56 years,
Occupation : Service.
31. Sunil Malharrao Deshpande,
deceased through L.Rs.,
- 31A. Tanuja Sunil Deshpande,
Age : Major,
Occupation : Nil.
- 31B. Rohit Sunil Deshpande,
Age : Major,
Occupation : Nil.
- 31C. Namita Sunil Deshpande,
Age : Major,
Occupation : Nil.
- Nos.31A to 31C
R/o. B-2, Viraj Vaibhav
Residency, Station Road,
Vedant Nagar, Aurangabad.
32. Gopal Ambadas Murlidhar,
Age : 57 years,
Occupation : Service.

33. Ramchandra Shenphad Pise,
Age : 55 years,
Occupation : Service.
34. Shrirang Damodhar Ralegaonkar,
Age : 50 years,
Occupation : Service.
35. Subhash Suryabhan Shahane,
Age : 48 years,
Occupation : Service.
36. Mukund Ramchandra Lale,
Age : 54 years,
Occupation : Service.
37. Vikas Ramakant Hadollikar,
Age : 54 years,
Occupation : Service.
38. Keshavrao Sampat Rakade,
Age : 44 years,
Occupation : Service.
39. Ramchandra Balabhau Salunke,
Age : 46 years,
Occupation : Service.
40. Balvan Soranlal Dulguch,
Age : 55 years,
Occupation : Service.
41. Sudam Namdeo Perherkar,
Age : 56 years,
Occupation : Service.
42. Tekchand Sandu Dube,
Age : 55 years,
Occupation : Service.
43. Asaram Tulsiram Mote,
Age : 51 years,
Occupation : Service.

44. Chandmiya Bholusha Shah,
deceased through L.Rs.,
- 44A. Rehana Chandmiya Shah,
Age : Major,
Occupation : Nil.
- 44B. Javed Chandmiya Shah,
Age : Major,
Occupation : Nil.
- Nos.44A & 44B
R/o. Nizamganj Colony,
Aurangabad.
45. Bhimrao Vishwanath Kondke,
Age : 52 years,
Occupation : Service.
46. Ramhari Kaduba Phalke,
Age : 56 years,
Occupation : Service.
47. Shamrao Yadav Gaikwad,
Age : 57 years,
Occupation : Service.
48. Sahebrao Namdeo Manohar,
Age : 56 years,
Occupation : Retired.
49. Namdeo Genu Wale,
Age : 59 years,
Occupation : Retired.
50. Ganpat Waman Bankar,
Age : 50 years,
Occupation : Service.
51. Vishvas Pandit Mhaske,
Age : 59 years,
Occupation : Retired.
52. Ashok Baburao Borde,
Age : 57 years,
Occupation : Service.

53. Subhashchandra Bhalchandra
Dashrath,
Age : 56 years,
Occupation : Service.
54. Prakash Rambhau Kharabe,
Age : 46 years,
Occupation : Service.
55. Shrikant Shrinivasrao Mudhalwadkar,
Age : 52 years,
Occupation : Service.
56. Arun Natthuji Ingle,
Age : 59 years,
Occupation : Retired.
57. Rajendra Ambadasrao Baviskar,
Age : 54 years,
Occupation : Service.
58. Suresh Laxman Pale,
Age : 54 years,
Occupation : Service.
59. Jaiprakash Jairam Pagare,
Age : 53 years,
Occupation : Service.
60. Laxman Haribhau Ingale,
Age : 58 years,
Occupation : Service.
61. Devidas Ukandrao Manware,
Age : 64 years,
Occupation : Retired.
- All R/o. WALMI, Paithan Road,
Kanchanwadi, Aurangabad,
District Aurangabad.
62. The State of Maharashtra,
Through its Chief Secretary,
Mantralaya, Mumbai - 32.

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Review Application (Civil) No. 0190 of 2019
(In Writ Petition No. 05236 of 2014)

District : Aurangabad

1. The State of Maharashtra,
Through its Chief Secretary,
Mantralaya, Mumbai - 32.
 2. The Principal Secretary,
Water Resources Department,
Government of Maharashtra,
Mantralaya, Mumbai.
 3. The Principal Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai.
- .. Applicants
(Original
respondents)

versus

1. Sudhakar Namdeo Gaikwad,
Age : 52 years,
Occupation : Service.
2. Sudhir Bapu Kulkarni,
Age : 58 years,
Occupation : Service.
3. Nana Janardhan Pandhare,
Age : 59 years,
Occupation : Retired.
4. Shivaji Shankarrao Kamble,
Age : 59 years,
Occupation : Retired.
5. Kashinath Sakharam Arke,
Age : 58 years,
Occupation : Service.
6. Gajanan Girdhari Bedre,
Age : 54 years,
Occupation : Service.
7. Prabhakar Sakharampant
Ratnaparkhi,
Age : 55 years,
Occupation : Service.
8. Kailas Sonaji Pujari,
Age : 56 years,
Occupation : Service.
9. Nandlal Shantilal Jain,
Age : 54 years,
Occupation : Service.
10. Ramakant Gangadharrao Patil,
Age : 54 years,
Occupation : Service.
11. Sudhir Dattatraya Kulkarni,
Age : 53 years,
Occupation : Service.

12. Pravin Sudhakar Rao Kulkarni,
Age : 47 years,
Occupation : Service.
13. Raosaheb Sheshrao Walunje,
Age : 62 years,
Occupation : Retired.
14. Santu Pandurang Gadekar,
Age : 50 years,
Occupation : Service.
15. Bhagwan Shankarrao Dawange,
Age : 59 years,
Occupation : Retired.
16. Shankar Rukhamnrao Kathole,
Age : 55 years,
Occupation : Service.
17. Dilip Balkrishna Saraf,
Deceased through L.Rs.,
 - 17A. Chaya Dilip Saraf,
Age : Major,
Occupation : Nil.
 - 17B. Satish Dilip Saraf,
Age : Major,
Occupation : Nil.
 - 17C. Narendra Dilip Saraf,
Age : Major,
Occupation : Nil.
 - 17D. Vivek Dilip Saraf,
Age : Major,
Occupation : Nil.

Nos.17A to 17D
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Age : 51 years,
Occupation : Service.
19. Vishnu Tukaram Bhalerao,
Age : 52 years,
Occupation : Service.
20. Mohd. Ismail Moinuddin,
Age : 52 years,
Occupation : Service.
21. Satish Dattatraya Deshmukh,
Age : 54 years,
Occupation : Service.
22. Mohd. Ghaziuddin Mohd.
Zamiruddin,
Age : 55 years,
Occupation : Service.
23. Vivekanand Chidambar Deshpande,
Age : 52 years,
Occupation : Service.
24. Arvind Gopinath Pawar,
Age : 51 years,
Occupation : Service.
25. Machindra Kashinath Pawar,
Age : 51 years,
Occupation : Service.
26. Prakash Hanumantrao Kulkarni,
Age : 55 years,
Occupation : Service.
27. Dhanraj Tanbaji Garmade,
Age : 59 years,
Occupation : Retired.
28. Vaijnath Madhavrao Suryakar,
Age : 54 years,
Occupation : Service.

29. Sakharam Hiroji Adivarekar,
Age : 57 years,
Occupation : Service.
30. Projveer Sing,
Age : 56 years,
Occupation : Service.
31. Sunil Malharrao Deshpande,
deceased through L.Rs.,
- 31A. Tanuja Sunil Deshpande,
Age : Major,
Occupation : Nil.
- 31B. Rohit Sunil Deshpande,
Age : Major,
Occupation : Nil.
- 31C. Namita Sunil Deshpande,
Age : Major,
Occupation : Nil.
- Nos.31A to 31C
R/o. B-2, Viraj Vaibhav
Residency, Station Road,
Vedant Nagar, Aurangabad.
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33. Ramchandra Shenphad Pise,
Age : 55 years,
Occupation : Service.
34. Shrirang Damodhar Ralegaonkar,
Age : 50 years,
Occupation : Service.
35. Subhash Suryabhan Shahane,
Age : 48 years,
Occupation : Service.

36. Mukund Ramchandra Lale,
Age : 54 years,
Occupation : Service.
37. Vikas Ramakant Hadollikar,
Age : 54 years,
Occupation : Service.
38. Keshavrao Sampat Rakade,
Age : 44 years,
Occupation : Service.
39. Ramchandra Balabhau Salunke,
Age : 46 years,
Occupation : Service.
40. Balvan Soranlal Dulguch,
Age : 55 years,
Occupation : Service.
41. Sudam Namdeo Perherkar,
Age : 56 years,
Occupation : Service.
42. Tekchand Sandu Dube,
Age : 55 years,
Occupation : Service.
43. Asaram Tulsiram Mote,
Age : 51 years,
Occupation : Service.
44. Chandmiya Bholusha Shah,
deceased through L.Rs.,
- 44A. Rehana Chandmiya Shah,
Age : Major,
Occupation : Nil.
- 44B. Javed Chandmiya Shah,
Age : Major,
Occupation : Nil.
- Nos.44A & 44B
R/o. Nizamganj Colony,
Aurangabad.

45. Bhimrao Vishwanath Kondke,
Age : 52 years,
Occupation : Service.
46. Ramhari Kaduba Phalke,
Age : 56 years,
Occupation : Service.
47. Shamrao Yadav Gaikwad,
Age : 57 years,
Occupation : Service.
48. Sahebrao Namdeo Manohar,
Age : 56 years,
Occupation : Retired.
49. Namdeo Genu Wale,
Age : 59 years,
Occupation : Retired.
50. Ganpat Waman Bankar,
Age : 50 years,
Occupation : Service.
51. Vishvas Pandit Mhaske,
Age : 59 years,
Occupation : Retired.
52. Ashok Baburao Borde,
Age : 57 years,
Occupation : Service.
53. Subhashchandra Bhalchandra
Dashrath,
Age : 56 years,
Occupation : Service.
54. Prakash Rambhau Kharabe,
Age : 46 years,
Occupation : Service.
55. Shrikant Shrinivasrao Mudhalwadkar,
Age : 52 years,
Occupation : Service.

56. Arun Natthuji Ingle,
Age : 59 years,
Occupation : Retired.

57. Rajendra Ambadasrao Baviskar,
Age : 54 years,
Occupation : Service.

58. Suresh Laxman Pale,
Age : 54 years,
Occupation : Service.

59. Jaiprakash Jairam Pagare,
Age : 53 years,
Occupation : Service.

60. Laxman Haribhau Ingale,
Age : 58 years,
Occupation : Service.

61. Devidas Ukandrao Manware,
Age : 64 years,
Occupation : Retired.

All R/o. WALMI, Paithan Road,
Kanchanwadi, Aurangabad,
District Aurangabad.

62. Water and Land Management
Institute,
Kanchanwadi,
Aurangabad,
Through its Director General.

.. Respondents
(Nos.01 to 61 -
petitioners in
WP.
&
No.62 -
Respondent
no.04 in
WP.)

.....

*Mr. S.B. Yawalkar, Additional Government Pleader,
for the applicants.*

*Mr. Pradeep G. Deshmukh, Advocate, for
non-applicants no.01 to 61.*

*Mr. Sushant V. Dixit, Advocate, for non-applicant
no.62.*

.....

With

Review Application (Civil) No. 0147 of 2019
(In Writ Petition No. 08149 of 2013)

District : Aurangabad

- | | |
|---|--|
| 1. Director General,
Water and Land Management
Institute,
Post Box No.504,
Kanchanwadi, Aurangabad. | .. Applicant
(Original
respondent) |
|---|--|

versus

1. Uttam s/o. Bhujangrao Kakde,
Age : 51 years,
Occupation : Service,
R/o. C-3, Vision City,
Opp. WALMI Gate,
Kanchanwadi, Paithan Road,
Aurangabad.
2. Bhagwan s/o. Dhondiram Gaikwad,
Age : 51 years,
Occupation : Service,
Itkheda, Paithan Road,
Aurangabad.
3. Bhaskar s/o. Bhujangrao Khedkar,
Age : 51 years,
Occupation : Service,
R/o. Progressive Housing Society,
N-9, M-2 Sector, Aurangabad.
4. Ganesh s/o. Limbaji Wagh,
Age : 54 years,
Occupation : Service,
R/o. Tridal Apartment, B-2,
Narali Baugh, Aurangabad.

5. Appa s/o. Bajirao Khadke,
Age : 50 years,
Occupation : Service,
R/o. Itkheda, Paithan Road,
Aurangabad.
 6. The State of Maharashtra,
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai - 32.
 7. Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai.
- .. Non-applicants
(Nos.01 to 05 -
Petitioners in
WP.
&
Nos.06 & 07 -
Respondents
no.01 & 02 in
WP.

.....

Mr. Sushant V. Dixit, Advocate, for the applicant.

*Mr. Pradeep G. Deshmukh, Advocate, for non-applicants
no.01 to 05.*

*Mr. S.B. Yawalkar, Additional Government Pleader,
for non-applicants no.06 and 07.*

.....

With

Review Application (Civil) No. 0192 of 2019
(In Writ Petition No. 08149 of 2013)

District : Aurangabad

1. The State of Maharashtra,
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai - 32.
 2. Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai.
- .. Applicants
(Original
respondents)

versus

1. Uttam s/o. Bhujangrao Kakde,
Age : 51 years,
Occupation : Service,
R/o. C-3, Vision City,
Opp. WALMI Gate,
Kanchanwadi, Paithan Road,
Aurangabad.
 2. Bhagwan s/o. Dhondiram Gaikwad,
Age : 51 years,
Occupation : Service,
Itkheda, Paithan Road,
Aurangabad.
 3. Bhaskar s/o. Bhujangrao Khedkar,
Age : 51 years,
Occupation : Service,
R/o. Progressive Housing Society,
N-9, M-2 Sector, Aurangabad.
 4. Ganesh s/o. Limbaji Wagh,
Age : 54 years,
Occupation : Service,
R/o. Tridal Apartment, B-2,
Narali Baugh, Aurangabad.
 5. Appa s/o. Bajirao Khadke,
Age : 50 years,
Occupation : Service,
R/o. Itkheda, Paithan Road,
Aurangabad.
 6. Director General,
Water and Land Management
Institute,
Post Box No.504,
Kanchanwadi, Aurangabad.
- .. Non-applicants
(Nos.01 to 05 -
Petitioners in
WP.
&
No.06 -
Respondent
no.03 in WP.)

.....

*Mr. S.B. Yawalkar, Additional Government Pleader,
for the applicants.*

*Mr. Pradeep G. Deshmukh, Advocate, for
non-applicants no.01 to 05.*

*Mr. Sushant V. Dixit, Advocate, for
non-applicant no.06.*

.....

With

Review Application (Civil) No. 0148 of 2019
(In Writ Petition No. 0748 of 2014)

District : Aurangabad

Director General,
Water and Land Management
Institute,
Post Box No.504,
Kanchanwadi, Aurangabad.

.. Applicant
(Original
respondent)

versus

1. Bhagwan s/o. Trimbak Kale,
Age : 58 years,
Occupation : Retired,
R/o. House No.4-1117,
C-11, Pushpaprasad,
Behind Big Bazar,
Bhanudasnagar,
Aurangabad.
2. Kiran s/o. Dattopant Halde,
Age : 58 years,
Occupation : Retired,
R/o. Plot No.24, Dwarka,
Garage Line,
Behind Big Bazar,
Bhanudasnagar, Aurangabad.

3. Rama s/o. Giridhari Chavan,
Age : 58 years,
Occupation : Retired,
R/o. House No.30, Georai,
Taluka & District Aurangabad.
 4. Mandakini w/o. Shivram Dusane,
Age : 59 years,
Occupation : Retired,
R/o. Yogiraj Sankul,
Flat No.5, Plot No.18,
Ashoknagar, Arched Parisar,
Aurangabad.
 5. Prakash s/o. Gangaram Wankhede,
Age : 58 years,
Occupation : Retired,
R/o. Samta Nagar, Near WALMI,
Kanchanwadi, Paithan Road,
Taluka & District Aurangabad.
 6. Arunkumar s/o. Kishanrao Bhanag,
Age : 58 years,
Occupation : Retired,
R/o. Sadkrupa Housing Society,
Plot No.37, N-8, CIDCO,
Aurangabad.
 7. The State of Maharashtra,
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai - 32.
 8. Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai.
- .. Non-applicants
(Nos.01 to 06 -
Petitioners in
WP.
&
Nos.07 & 08 -
Respondents
no.01 & 02 in
WP.)

.....

Mr. Sushant V. Dixit, Advocate, for the applicant.

*Mr. Pradeep G. Deshmukh, Advocate, for non-applicants
no.01 to 06.*

*Mr. S.B. Yawalkar, Additional Government Pleader,
for non-applicants no.07 and 08.*

.....

With

Review Application (Civil) No. 0191 of 2019

(In Writ Petition No. 0748 of 2014)

District : Aurangabad

1. The State of Maharashtra,
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai - 32.
2. Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Mumbai.

.. Applicants
(Original
respondents)

versus

1. Bhagwan s/o. Trimbak Kale,
Age : 58 years,
Occupation : Retired,
R/o. House No.4-1117,
C-11, Pushpaprasad,
Behind Big Bazar,
Bhanudasnagar,
Aurangabad.
2. Kiran s/o. Dattopant Halde,
Age : 58 years,
Occupation : Retired,
R/o. Plot No.24, Dwarka,
Garage Line,
Behind Big Bazar,
Bhanudasnagar, Aurangabad.

3. Rama s/o. Giridhari Chavan,
Age : 58 years,
Occupation : Retired,
R/o. House No.30, Georai,
Taluka & District Aurangabad.
 4. Mandakini w/o. Shivram Dusane,
Age : 59 years,
Occupation : Retired,
R/o. Yogiraj Sankul,
Flat No.5, Plot No.18,
Ashoknagar, Arched Parisar,
Aurangabad.
 5. Prakash s/o. Gangaram Wankhede,
Age : 58 years,
Occupation : Retired,
R/o. Samta Nagar, Near WALMI,
Kanchanwadi, Paithan Road,
Taluka & District Aurangabad.
 6. Arunkumar s/o. Kishanrao Bhanag,
Age : 58 years,
Occupation : Retired,
R/o. Sadkrupa Housing Society,
Plot No.37, N-8, CIDCO,
Aurangabad.
 7. Director General,
Water and Land Management
Institute,
Post Box No.504,
Kanchanwadi, Aurangabad.
- .. Non-applicants
(Nos.01 to 06 -
Petitioners in
WP.
&
No.07 -
Respondent no.03
in WP.)

.....

*Mr. S.B. Yawalkar, Additional Government Pleader,
for the applicants.*

*Mr. Pradeep G. Deshmukh, Advocate, for non-applicants
no.01 to 06.*

*Mr. Sushant V. Dixit, Advocate, for non-applicant
no.07.*

.....

**CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 05TH SEPTEMBER 2019

O R D E R (Per Smt. Vibha Kankanwadi, J.) :

01. Present review petitions have been filed under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908 for review of the judgment and order passed by this Court [Coram : R.M. Borde & Smt. Vibha Kankanwadi, JJ.] in Writ Petition No. 5236 of 2014, Writ Petition No. 8149 of 2013 and Writ Petition No. 748 of 2014, dated 20th July 2018. All these Writ Petitions were filed by the employees of Water & Land Management Institute, Aurangabad [For short, "WALMI"], who were aggrieved by the decision of the State Government in refusing to extend pensionary benefits to the retired employees of WALMI, which was communicated on 05-03-2013. They were also seeking directions to the respondents no.01 to 04 in the writ petitions, to grant monthly pension as provided under the Maharashtra Civil Services (Pension) Rules, 1982 and disbursement of the arrears of pension along with

12 % interest thereon.

02. Heard learned Additional Government Pleader Mr. S.B. Yawalkar appearing for the applicants viz. State of Maharashtra & its authorities. Heard learned Advocate Mr. S.V. Dixit appearing for the applicant viz. WALMI. So also, heard learned Advocate Mr. Pradeep Deshmukh appearing for the non-applicants viz. petitioners in writ petitions.

03. It has been vehemently submitted on behalf of the applicants in all the review applications, that this Court did not consider that the said rules Maharashtra Civil Services (Pension) Rules, 1982 [For short, "MCSP Rules"] were not applicable to the employees of WALMI. That decision which was communicated on 05-03-2013 was based upon policy decision taken by the State Government in the year 1998 itself and at that time, that policy decision was not challenged at all by any of the respondents. There was error on the face of the record in not considering that there was no challenge to the Government Resolution dated

08-11-2005 issued by the State Government, by which policy decision was taken not to extend benefit of MCSP Rules to autonomous bodies like WALMI. The net result in not challenging the Government Resolution dated 08-11-2005 and the policy decision taken in the year 1998 had affected the ultimate decision of the writ petition and they ought to have been dismissed at the threshold itself. It was also considered that WALMI was registered under Societies Registration Act and it was a separate legal entity than the State Government. The employees were then governed under the Employees' Provident Fund Act and they had not adopted MCSP Rules. The other Government Resolutions dated 19-07-2011 and subsequent thereto were not considered. A fact was highlighted that WALMI is receiving grant in aid from the State Government and therefore, in the decision in all the writ petitions, comparison was made with the educational institutions which were imparting education to which MCSP Rules were made applicable. But the fact which was not considered is that though the grant in aid was given by the State Government, still the services of its

employees were never considered as public servant or they were never employees of the State Government. WALMI is an autonomous body and therefore, unless rules would have prescribed for providing pension to its employees, there was no scope to make MCSP Rules applicable to them. The various communications between the Government and WALMI were not considered. While pronouncing the judgment, the Court ought to have considered that other autonomous institutions which were receiving grant in aid from the Government and also covered under the contributory provident fund scheme, such as MHADA, Maharashtra State Electricity Board, Tilak Maharashtra Vidyapeeth, Dr. Babasaheb Ambedkar High School, Mahatma Gandhi Memorial Hospital, Health Science University, Remand Home operated by recognized aided non-governmental institutions, Maharashtra Pollution Control Board were also demanding application of the pension scheme. However, as a policy decision, the Government had taken the decision not to grant any benefit under the Pension Scheme. The ratio laid down by the Hon'ble Apex Court in *State of Maharashtra Vs.*

Manubhai Pragi Vashi [AIR 1996 SC 01] was not considered. The work which was assigned to the employees of WALMI was of a different kind and it could not have been compared with any other institution. When their work was not similar, there was no question of any discrimination of those employees from the employees of the Government. The educational institutions which have been referred in the judgment and order dated 20th July 2018 were governed under different statutes and therefore, equating them with the petitioners who were the employees of WALMI was erroneous. Taking into consideration all these aspects which were not considered at all while delivering the impugned judgment, the said view that has been taken and the decision that has been taken needs to be reviewed thereby calling the said judgment and order and restoring the writ petitions to its original file.

04. Both, the learned AGP as well as learned Advocate appearing for the applicants have relied on the decision in Writ Petition No. 346 of 2013 [*MHADA*

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with companion petitions decided by the Division Bench of this Court at principal seat on 19th March 2014, wherein it has been observed that the employees of MHADA had passed a resolution and then it was agreed in principle to make the pension scheme applicable to the petitioners therein. However, the said demand was turned down. In that case, as per Section 19(5) of the MHADA Act, rules were to be framed by the State Government and it was found that since no rules were framed and the conditions of service were different, the writ petition was dismissed on the ground that merely because the authorities have earmarked an amount and a statement was made that the authority would bear financial burden towards the payment of pension scheme, that will not *ipso facto* create any right in favour of the petitioners. It is tried to be submitted that similar is the situation in the present matters wherein principally it was accepted by WALMI authorities that the pension scheme would be made applicable; but thereafter when the matter was

further forwarded to the State Government, the State Government refused as the policy decision was taken. There was no question of whether the State Government will bear the financial burden or not since the rules itself were different and the employees of WALMI were never covered under the MCSP Rules. Further reliance has been placed on the decision of this Court at principal seat in Writ Petition No. 8387 of 2013 [*Deshmukh Dilipkumar Bhagwan & others Vs. The State of Maharashtra & others*], wherein Full Bench of this Court delivered its judgment on 30th April 2019 and answered the reference that was made. It was held that "*In the context of the right of an employee of private school or college of education of education to receive pensionary benefits and the corresponding liability of the Government to pay the same, only those schools and colleges of education which are receiving 100 % grant-in-aid can be termed as aided institutions.*" It was further held that "*The employees who were appointed prior to 01-11-2005 in aided recognized primary, secondary schools as well as colleges of education which were receiving less than 100 % grant-in-aid as on 01-11-2005 would be governed by the DCP*

scheme." The Full Bench further held that "Similar will be the situation of the employees who were appointed prior to 01-11-2005 in aided primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100 % grant in aid as on 01-11-2005 but which became 100 % aided before 29-11-2010 would also be governed by the DCP scheme." Therefore, when such decision has been given that would also affect the employees with WALMI who were appointed prior to 01-11-2005. Further reliance has been placed on the decision in *Balco Employees' Union (Regd.) Vs. Union of India & others* [(2002) 2 SCC 333], wherein it has been held that "In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court. It is neither within the domain of the courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether

better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical."

05. Per contra, learned Advocate appearing for the non-applicants viz. original petitioners submitted that all the points which the review petitioners intend to raise, were already raised by them before the Division Bench which pronounced the judgment. Now, in the review petitions, the same decision cannot be reviewed or revisited only on the ground that it was not properly considered. The powers of review cannot be exercised as in appeal. Detailed affidavits raising objections to the writ petitions were submitted on behalf of the respondents to the writ petitions. The documents which were attached to the reply affidavits were also considered by the Court while pronouncing the judgment and therefore, it cannot be said that there is any error apparent on the face of record of the said decision requiring any interference under Section 114 read

with Order XLVII of the Code of Civil Procedure, 1908.

06. At the outset, before dealing with the points raised, some background under which the writ petitions were filed is required to be considered. Those petitioners had come with a case that WALMI is a Society wholly controlled by the State Government but it was registered under the Societies Registration Act, 1860. It was also not a matter of controversy, that all the first members of Governing Council of WALMI were the government employees. As per the regulations, the members of the Governing Council were the Secretary to the Government of Maharashtra, Irrigation Department and Secretary to the Government of Maharashtra, Planning Department. The funds and properties of the Society and the entire management was vested in the Governing Council. The finances, as per the rules, were required to be provided by the Government to the said institute. Even the rules were framed by name, WALMI Establishment Rules, 1980, providing for the benefits

of travelling allowance, daily allowance, medical reimbursement, house rent allowance, etc. However, there was no provision made for pension, provident fund and gratuity to the employees in the said rules. State Government had passed a resolution on 16-06-1993 laying down norms for proper utilization of grant in aid extended to WALMI. The basic purpose for which WALMI was established, was to perform educational functions giving training to various institutions or allied institutions. The Director General of the institution had recommended implementation of the pension scheme to the employees of WALMI uniformly but no decision was taken. Under those circumstance, a Writ Petition bearing No. 1507 of 2012 was filed before this Court. The said Writ Petition was disposed of on 12-09-2012 by issuing directions to the State to take decision on the proposal rendered by WALMI within a period of six months. It appears that the State Government did not approve the proposal given by WALMI and then the rejection letter was issued on 05-03-2013 stating that a policy decision was taken in the year 1998

itself, not to make the pension scheme applicable to autonomous bodies. Therefore, the said decision dated 05-03-2013 was challenged in those writ petitions with further prayer as narrated above.

07. Perusal of the impugned judgment would show that all the points which were submitted on behalf of the respondents i.e. present applicants were considered. The affidavit in reply filed by the respondents therein with the annexures thereof were also considered. Therefore, there is no error apparent on the face of the record. The decision in Writ Petition No. 346 of 2013 (supra) can be distinguished on the point that there were no rules made under the MHADA Act governing the terms and conditions of service of the employees with MHADA and therefore, when the rules were required to be framed and were not framed, yet, when MHADA authorities submitted that some amount has been earmarked and the financial burden in pursuant to applicability of the pension rules can be taken care of, that was not accepted by the Court. Here, after considering all

the objections raised by the Government as well as the institute, it was held that WALMI essentially performs educational and research activities; it is receiving 100 % grant from the State Government and the service conditions of the employees are regulated by the Maharashtra Civil Services Rules. The employees of WALMI have been extended the benefits of wage, pay scale revision from time to time on par with the government employees. So also, the policy in respect of fixation of time bound pay scale was also extended to the employees of WALMI. The denial of pensionary benefits to the employees of WALMI was discriminatory and violative of principles of equity guaranteed under Article 14 of the Constitution of India. Answers to the reference by the Full Bench would be considered by the State Government, if at all the employees of WALMI are fulfilling the said criteria. Further, the ratio in the decision in *Balco Employees' Union (supra)* cannot be disputed; but for the reasons stated in the writ petition, it was held that the denial by the State Government of extending the pensionary benefits to the employees of WALMI was

discriminatory under Article 14 of the Constitution of India. There was no question of only challenge to the policy decision but it was coupled with the discrimination that has been made when the petitioners were, in fact, considered at par in other matters with the other employees of the State Government.

08. The scope of the review petition is required to be considered. In *Vinay Sharma & another Vs. State (NCT of Delhi) & others* [(2018) 8 SCC 186], it has been observed that "*Power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications.*" Here, in this case, the points which have been raised by the review petitioners can be termed as repetition of old and overruled arguments. Further, in *Haryana State Industrial Development Corporation Limited Vs. Mawasi & others* [(2012) 7 SCC 200], it has been held that "*Roving inquiry or de novo hearing in guise of review is impermissible.*" Reliance was placed in this decision,

in the case of *Thungabhadra Industries Ltd. Vs. Govt. of A.P.* [AIR 1964 SC 1372](*Three Judges Bench*), wherein it has been observed thus :-

"11. ... A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions, entertained about it, a clear case of error apparent on the face of the record would be made out."

Further note was taken in respect of the decision in *Parsion Devi Vs. Sumitri Devi* [(1997) 8 SCC 715], wherein it has been observed thus :-

"9. ... An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC ... A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise'."

The same ratio is reiterated in *Vikram Singh alias Vicky Walia & another Vs. State of Punjab & another* [(2017) 8 SCC 518], wherein it has been held that *"Review cannot be made on those*

grounds which were already urged during appeal." In this case, the term "an error apparent on the face of the record" has been explained with the help of earlier pronouncement of the Hon'ble Apex Court in *Kamlesh Verma Vs. Mayawati* [(2013) 8 SCC 320], wherein it was held that "an error which is not self-evident and has to be detected by a process of reasoning is not an error apparent on the face of the record." The ratio laid down in *State of West Bengal & others Vs. Kamal Sengupta & another* [(2008) 8 SCC 612] can be taken wherein it has been observed thus :-

"21. At this stage, it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review ex debito justitiae. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court earlier.

22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position.

If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision."

09. Thus, taking into consideration the above said legal position, it can be said that the points which have been raised by the review petitioners are not within the ambit of the powers of review which can be exercised under Section 114 read with Order XLIVII of the Code of Civil Procedure, 1908.

10. There is no merit in the present review applications and they are accordingly dismissed.

(Smt. Vibha Kankanwadi)
JUDGE

(Sunil P. Deshmukh)
JUDGE

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